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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,309	12/02/2003	David Andrew Dalton	9454	3111
27752	7590	03/24/2006		
THE PROCTER & GAMBLE COMPANY INTELLECTUAL PROPERTY DIVISION WINTON HILL TECHNICAL CENTER - BOX 161 6110 CENTER HILL AVENUE CINCINNATI, OH 45224			EXAMINER KUHN, SARAH LOUISE	
			ART UNIT	PAPER NUMBER
			1761	

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/726,309	DALTON ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Sarah L. Kuhns	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-14, 16 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14, 16 and 18-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 6, 2006, has been entered.

### ***Claim Rejections - 35 USC § 103***

Claims 1-5, 16 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vidkjaer, in view of The Encyclopedia of Polymer Science and Technology, for the reasons set forth in the previous Office Action, in further view of Bruke. Vidkjaer does not disclose the packaging system containing coffee, but does teach it containing an off-gassing food product. Bruke teaches that it was known to use packaging systems, possessing the same characteristics as that of Vidkjaer, to contain coffee (abstract). As such it would have been obvious to extend the packaging system of Vidkjaer to other off-gassing food products, such as coffee.

Claims 1-7, 11-14 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruke, in view of The Encyclopedia of Polymer Science and Technology, for the reasons set forth in the previous Office Action.

Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruke, in view of The Encyclopedia of Polymer Science and Technology and Ota, for the reasons set forth in the previous Office Action

### ***Response to Arguments***

Applicant's arguments filed February 6, 2006, have been fully considered but they are not persuasive.

Applicant argues that Vidkjaer, alone or in combination with the other cited references, fails to teach blow-molded containers having regions of deflection. While Vidkjaer does not specifically disclose a blow-molded container, it does disclose that the container is thermoformed. Since blow-molding was notoriously well known at the time of invention, it is not seen how the use of such a conventional method would amount to an inventive step. Additionally, it is not seen how blow-molding would produce a product different from that of Vidkjaer.

Applicant also argues that the reinforcement ribs in Vidkjaer cannot be deemed to serve as both a reinforcement means and a region of deflection. Applicant states that the reinforcement ribs of Vidkjaer cannot both reinforce the container and allow flexibility. However, the claim language only requires a "region of deflection" and has no flexibility requirement. As the prior art teaches ribs, which reinforce the container, and

these areas, being reinforced, are stronger, it would have been expected that they would deflect forces on the container.

Applicant argues that Bruke relates to a bag-in-box container and fails to provide any teaching that an off-gassing product, such as coffee, can be packaged in a blow-molded container without the use of a protective inner container. However, nothing in the claim language excludes an inner protective container. It is also noted that The Encyclopedia of Polymer Science and Technology is relied on for the teaching of blow-molded containers and therefore, the combination does disclose all of the limitations of the claimed invention.

Applicant arguments with respect to the regions of deflection in the Bruke reference are unpersuasive for the same reasons discussed above with respect to the Vidkjaer reference.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah L. Kuhns whose telephone number is 571-272-1088. The examiner can normally be reached on Monday - Friday from 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached at 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1761

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SLK

  
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